

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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XIAO YE BAI,

Plaintiff,

v.

CALVIN JOHNSON, *et al.*,

Defendants.

Case No. 2:20-cv-02192-RFB-EJY

ORDER

This action began with a pro se civil rights Complaint filed pursuant to 42 U.S.C. § 1983 by Plaintiff, an inmate in the custody of the Nevada Department of Corrections. ECF No. 1-1. Plaintiff submitted an application to proceed *in forma pauperis*. ECF No. 8. Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

On October 1, 2021, the Court imposed a stay and entered subsequent orders in which the parties were assigned to mediation by a court-appointed mediator and the stay was extended. ECF Nos. 11, 18, 34. The Office of the Attorney General filed a status report stating a settlement was not reached and informing the Court of its intent to proceed with this action. ECF No. 39.

For the foregoing reasons, **IT IS HEREBY ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 8) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act, the Nevada Department of Corrections will forward payments from the account of Xiao Ye Bai #1099896, to the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's deposits (in months that the account exceeds \$10.00) until the full \$350 filing

1 fee has been paid for this action. The Clerk of the Court shall **SEND** a copy of this Order to the
2 Finance Division of the Clerk's Office. The Clerk of the Court shall also **SEND** a copy of this
3 Order to the attention of the Chief of Inmate Services for the Nevada Department of Corrections,
4 P.O. Box 7011, Carson City, NV 89702.

5 4. The Clerk of the Court shall electronically **SERVE** a copy of this Order, the
6 Screening Order (ECF No. 11), and a copy of Plaintiff's Complaint (ECF No. 12) on the Office of
7 the Attorney General of the State of Nevada by adding the Attorney General of the State of Nevada
8 to the docket sheet. This does not indicate acceptance of service.

9 5. Subject to the findings of the Screening Order (ECF No. 11), within twenty-one
10 (21) days of the date of entry of this Order, the Attorney General's Office shall file a notice
11 advising the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service;
12 (b) the names of the defendants for whom it does not accept service, and (c) the names of the
13 defendants for whom it is filing the last-known-address information under seal. As to any of the
14 named defendants for whom the Attorney General's Office cannot accept service, the Attorney
15 General's Office shall file, under seal, but shall not serve the inmate Plaintiff the last known
16 address(es) of those defendant(s) for whom it has such information. If the last known address of
17 the defendant(s) is a post office box, the Attorney General's Office shall attempt to obtain and
18 provide the last known physical address(es).

19 6. If service cannot be accepted for any of the named defendant(s), Plaintiff shall file
20 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying
21 a full name and address for the defendant(s). For the defendant(s) as to which the Attorney
22 General's Office has not provided last-known-address information, Plaintiff shall provide the full
23 name and address for the defendant(s).

24 7. If the Attorney General's Office accepts service of process for any named
25 defendant(s), such defendant(s) shall file and serve an answer or other response to the Complaint
26 within sixty (60) days from the date of this Order.
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9. Plaintiff shall serve upon defendant(s) or, if an appearance has been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for consideration by the Court. Plaintiff shall include with the original document submitted for filing a certificate stating the date that a true and correct copy of the document was mailed or electronically filed to the defendants or counsel for the defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service to the individual attorney named in the notice of appearance, at the physical or electronic address stated therein. The Court may disregard any document received by a district judge or magistrate judge which has not been filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk which fails to include a certificate showing proper service.

DATED THIS 10th day of February, 2022.

ELAYNA J. YOUGHAN
UNITED STATES MAGISTRATE JUDGE